

# What To Do When Your Marine Commits An Offense

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# COMMANDER'S GOAL

- To have Full Range of Options!

# To Increase Your Options You need the Leverage!

- As soon as possible, gather the evidence
  - Request CID / NCIS assistance.
  - Appoint an investigating officer to conduct a *thorough* preliminary inquiry.
- Treat the case as if you are going to a court-martial.
  - If the accused refuses NJP, you will
- Call OSJA if you have questions.

# **What to Do If Your Marine Pops + on a Drug Test**

## **MPI Interrogation**

- Immediately
- Do NOT advise the Marine to see DC
- Do NOT tell the Marine why

# **What to Do If Your Marine Pops + on a Drug Test**

Ask for Consent to Search room and  
car

- drugs
- paraphernalia

# **What to Do If Your Marine Pops + on a Drug Test**

Consider Health and Comfort  
Inspection

- Not search for evidence
- Thorough (drug dogs, urinalysis, SOP)
- Treat every room / Marine the same

# SEARCH AND SEIZURE

The background is a solid blue gradient. A thin white arc starts from the top left and curves towards the right. A blue wedge shape, pointing towards the top right, is located on the right side of the image.

# **KNOWLEDGE IS POWER**

- **IGNORANCE IS NEVER AN EXCUSE UNDER THE LAW -- AN ILLEGAL SEARCH WILL POTENTIALLY THROW A CASE OUT OF COURT.**



# CONSEQUENCES OF AN ILLEGAL SEARCH

- EXCLUSIONARY  
RULE
- "FRUITS OF THE  
POISONOUS TREE"



# TYPES OF SEARCHES

- CONSENT SEARCH
- SEARCH AUTHORIZED BY CO
- EXIGENCY SEARCH
- INCIDENT TO APPREHENSION
- SEARCH OF GOVERNMENT PROPERTY

# CONSENT SEARCH

- ALWAYS ASK FOR CONSENT
- PROBABLE CAUSE IS NOT REQUIRED
- MUST BE VOLUNTARY!!!!!!!!!!!!
- CONSENT MAY BE LIMITED

# SEARCH AUTHORIZED BY THE CO

- POWER TO AUTHORIZE
- BASIS FOR AUTHORIZATION
- SCOPE OF THE SEARCH
- ISSUING THE AUTHORIZATION TO SEARCH
- CONDUCT OF SEARCH

# EXIGENCY SEARCH

- IMMEDIATE ACTION IS NECESSARY TO PREVENT THE REMOVAL OR DESTRUCTION OF EVIDENCE
- BASED ON PROBABLE CAUSE
- NO SEARCH AUTHORIZATION REQUIRED
- BURDEN OF PROOF--FREEZE THE SITUATION WHERE POSSIBLE

# EXIGENCY SEARCH

- FREEZE THE SITUATION, then
  - ASK FOR CONSENT
  - EXECUTE A SEARCH      AUTHORIZATION

# SEARCH INCIDENT TO A LAWFUL APPREHENSION

- MUST HAVE PROBABLE CAUSE TO APPREHEND
- SCOPE OF THE SEARCH -- "WINGSPAN"

# SEARCHES OF GOVERNMENT PROPERTY

- NO REASONABLE EXPECTATION OF PRIVACY IN GOVERNMENT PROPERTY
- OFFICES AND GOVERNMENT VEHICLES MAY BE LEGALLY SEARCHED WITHOUT CONSENT OR PROBABLE CAUSE
- E-MAIL??



# SEARCH v. INSPECTION

- SEARCH: FIND EVIDENCE AND USE TO PROSECUTE  
\*\*FOCUS IS PROSECUTORIAL / INDIVIDUAL
- INSPECTION: FIND PROBLEMS AND CORRECT  
\*\*FOCUS IS ON GOOD ORDER, DISCIPLINE,  
AND MORALE OF THE UNIT

# **INSPECTIONS**

## **(aka HEALTH AND COMFORT)**

- **PURPOSE:**

- ▬ ENSURE UNIT SECURITY,
  - MILITARY FITNESS; OR
  - GOOD ORDER AND DISCIPLINE

- **EXAMPLES:**

- STATE OF READINESS
- LIVING CONDITIONS
- SANITATION
- PERSONNEL FIT AND READY FOR DUTY

# INSPECTION

- CAN'T BE A SEARCH IN DISGUISE!
  - SPECIFIC INDIVIDUALS ARE SELECTED FOR EXAMINATION OR SUBJECTED TO DIFFERENT STANDARDS.
  - OKAY IF THE INSPECTION WAS DIRECTED BECAUSE OF A REPORT OF A SPECIFIC OFFENSE IN THE UNIT;

# **QUESTIONS ?**

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